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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,859	06/26/2003	Michael J. Yancey	25053	7125
28624	7590	09/07/2005		
WEYERHAEUSER COMPANY INTELLECTUAL PROPERTY DEPT., CH 1J27 P.O. BOX 9777 FEDERAL WAY, WA 98063			EXAMINER FAYYAZ, NASHMIYA SAQIB	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/607,859

Applicant(s)

YANCEY ET AL.

Examiner

Nashmiya S. Fayyaz

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/14/03</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/08749 (Harris). As to claim 1, Harris discloses a method of assessing/predicting the characteristics of wood including an example using a log of 2 meters length (which obviously is measured), relating the length and providing a frequency sweep between 500Hz to 10kHz over a 3 second period, then receiving the frequencies which is used to determine the resonance frequency which is used to determine velocity in the sample and then the modulus of elasticity, see p.5 and p.13, last paragraph to p.14. Note that the frequency range given includes values within the recited 100-1000 Hz claimed and it is further noted that on p.6, the frequency range is given as 100 Hz to 20kHz for a log implying an adjustment of the range based on the size of the wood. Further, it is noted that the period is given as 3 seconds rather than about

1 second. However, it is noted that on p.6, it is indicated that the sweep time will be preferably about 5 seconds or less and greater than 0.1 second. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have recognized that the 3 second sweep time is an example and that any time period within the *preferable* 5 to 0.1 second range would be applicable based on the sensitivity of response necessary along with power requirements. As to claims 2 and 3, optimization of the range within certain ranges is considered to have been within the purview of one of ordinary skill in the art at the time of the invention without having performed undue experimentation. As to claim 4, again the sweep time is recited as down to 0.1 second which is no longer than 0.2 second. As to claim 5, again the sweep time is recited as down to 0.1 second. As to claim 6, note the wood is recited as a log, see Abstract. As to claim 7, see p.5 which indicates determination of MoE. As to claim 8, usage of the modulus of elasticity for cutting optimization is known and therefore official notice is taken that incorporation of MoE would have been obvious to one of ordinary skill in the art at the time of the invention to have included for optimum sawing of logs. As to claim 9, note accelerometer at face 1506 in Fig. 15 as described on p.23. As to claim 10, usage of a laser Doppler vibrometer as an alternative to an accelerometer is old and well-known. Therefore, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the

accelerometer with any known alternatives such as a laser Doppler vibrometer as a matter of design choice.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on PTO-892 include state-of the art wood testing devices .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NFayyaz  
Examiner  
Art Unit 2856

nf  
8/29/05



HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800